

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
November 21, 2013

Members Present

Vic Lessard, Chairman
Bryan Provencal, Vice Chairman
Ed St. Pierre, Clerk
Jack Lessard (Alternate)
Bill O'Brien

Others Present

Joan Rice Secretary

Chairman Lessard called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Board members were introduced.

PETITION SESSION

Mr. O'Brien noted that there was a Motion for Rehearing on Petition 40-13 from Green & Co. He said they have another petition (51-13) before the Board at this meeting which is on a portion of the same property. This has not been resolved and there have never been two proposals on the same property at the same time. Mr. O'Brien said he felt Petition 51-13 should be delayed until a decision is made on the Motion for Rehearing.

Richard Green said 51-13 is their alternate project. Mr. St. Pierre suggested scheduling a special meeting to hear the Motion for Rehearing. Mr. Green said the Planning Board has now raised the height limit.

Attorney Peter Saari, Casassa and Ryan, said the petitioners would like to withdraw their Motion for Rehearing.

Moved by Mr. Provencal, seconded by Mr. St. Pierre, to allow the Motion for Rehearing on Petition 40-13 to be withdrawn without prejudice.

Vote: 5 yes, 0 no. Motion passed unanimously.

45-13...The continued petition of Ron Boucher for property located at 32 Depot Square seeking relief from Articles 4.5.1 and Article V as to 4.5.2 A)-2 to post signage on Lafayette Road and Depot Square. This property is located on Map 143, Lot 021A and in the B Zone.

Ron Boucher, petitioner, came forward. Mr. Boucher said it is not possible for anyone traveling south on Rt. 1A to see his sign. He said he would like to put up his own post for a sign under Mr. Stan Brown's signs. Mr. Boucher said he had consulted with his attorney

who said he saw no reason this could not be done. Mr. Boucher said he proposes to put a 10 sq. ft. sign below Mr. Brown's. Mr. Boucher went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre noted that Mr. Boucher owned the land where this sign would be and asked about Mr. Brown's signs. Mr. Boucher said Mr. Brown has an easement to put a sign there.

Comments from the Audience

Stan Brown came forward. He said he objected to any incursion into the properties that are within his deed. Mr. Boucher's proposal would be very harmful to his business. The Town is very proud of the gazebo. Anyone driving south would be unable to have a view of Marelli Park or the gazebo. Mr. Brown said he had an easement on the property where his sign is installed and there is a sign permit in the deed. Mr. Brown said this would also be harmful to the other tenants.

Arthur Brown, son of Stan Brown, came forward. He said the permit to erect a sign was in the easement. They feel that if anything is changed or added it would go against their easement.

Back to the Board

Mr. O'Brien asked Mr. Boucher that since he owns the roadway what would prevent him from going to the north side for erection of his sign. Mr. Boucher replied that it seemed an easier approach to put it in the place proposed in his petition.

Chairman Lessard said a lot of work went into the gazebo. This would ruin the view of the gazebo and therefore he was opposed to it.

Mr. Boucher said he owns the land and Mr. Brown has an easement to have his sign. Mr. Boucher said he would be willing to modify the look of his sign.

Mr. St. Pierre asked if it was feasible to locate the sign on the other side. Mr. Boucher said it would have to be right on the property line to not intrude on the driveway. Also the tenant who owns the building directly behind would have to be consulted.

Mr. St. Pierre said Mr. Boucher has a right to the land and this could be postponed until the tenant noted could be consulted. Mr. Boucher said he would also have to consult with the other tenants.

Moved by Mr. St. Pierre, seconded by Mr. O'Brien, to postpone Petition 45-13 until the December meeting at which time it would be first on the Agenda to allow petitioner time to consult with neighbors and attorneys.

Vote: 5 yes, 0 no. Motion passed unanimously

Petitioners for Petition 46-13, 73 Ocean Blvd., have requested to continue to the December meeting.

47-13...The petition of William B. Weingartner, Jr. for property located at 8 McKay Avenue seeking relief from Articles 1.3, 4.5.1 and 4.5.2 to raise the existing 1-story cottage to create second floor living space which will be within the same setback as the existing building (except for the side steps) but which would not meet the changes to the side and front setback requirements that were enacted after the cottage was built. This property is located on Map 275, Lot 12 and in the RCS Zone.

William Weingartner and Attorney Peter Saari came forward. Attorney Saari said this is a small house and the petitioner wants to raise it up with the same footprint. It will stay within the height limitations and provide some bedrooms on the second floor. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if Footnote 12 was included in their request for 4.5.2. Attorney Saari replied that it was.

Mr. O'Brien asked if relief from 6.3.1 was needed for parking spaces. Mr. Weingartner said the stairs will stay in the same place so this relief will not be needed. Mr. O'Brien said the plan needs to be redone to show the stairs in the correct place.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. J. Lessard, to grant Petition 47-13 subject to revision of the plot plan to reflect the stairs remaining where they were and to show two 9 x 18 parking spaces.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

48-13...The petition of Richard F. Hajjar and Elaine Hajjar for property located at 4 Bradford Avenue seeking relief from Article 1.3 and Article VIII, section 8.2.3 to convert the attic in the main house into additional living space, as shown on the design plans attached hereto. In addition, petitioner seeks to remove a gable on the main house and replace it with a deck (also shown on the attached design plans). There will be no change in the footprint of the home. The property currently qualifies as a pre-existing non-conforming use. The property is located on Map 293, Lot 179 and in the RB Zone.

Richard and Elaine Hajjar, Petitioners, and Attorney Ted Morris came forward. Attorney Morris said the property consists of a primary building and two small cottages. The renovation will not intensify the non-conforming use of the property. Currently there are six parking spaces and these will remain. This is similar to the next door neighbor's renovation. Attorney Morris went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no questions from the Audience.

Back to the Board

Mr. St. Pierre asked what the maximum height would be. Attorney Morris said it would be 34.6 feet.

Mr. O'Brien asked if the shed in the back would be removed. Attorney Morris said it would be removed.

Moved by Mr. Provencal, seconded by Mr. J. Lessard, to grant Petition 48-13.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

49-13...The petition of Edward J. Smith, Trustee of the Edward J. Smith Revocable Trust of 1999 for property located at 11-13 Boston Avenue seeking relief from Articles 1.3, 8.2.3 to construct a roof over the front deck and part of the stairway of the rear building keeping

within the same measurements as the deck and the upper portion of the stairs but providing a 10" overhang. This property is located on Map 296, Lot 54 and in the RB Zone.

Edward Smith, Petitioner, and Attorney Peter Saari came forward. Attorney Saari said Mr. Smith has owned the property for 30 years. The deck gets icy, snowy, etc. Mr. Smith wants to make it safer by adding the roof. This does not meet the 40' setback in the RB Zone. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the deck was on the back building. Mr. Smith said it was. Mr. O'Brien said this could be considered an addition to the house because it could be enclosed. Mr. Smith said he had no plans to do that.

Comments from the Audience

Loretta Schuck, 44 Leonard St., Woburn, MA, came forward. She said everything Mr. Smith has done has always been first rate and she is in favor of granting this petition.

Gary Kerr, 7 Boston Ave., said he has been a neighbor of Mr. Smith for 17 years and is in favor of granting this petition.

Back to the Board

Moved by Mr. J. Lessard, seconded by Mr. Provencal, to grant Petition 49-13.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

Petition 50-13, 12 River Avenue, has been withdrawn.

51-13...The petition of Green & Company Building and Development Corp. for property located at 5 Ashworth Avenue, 275 Ocean Blvd. and 5 Ashworth Avenue Rear seeking relief from Articles 4.1.1, 4.4, 4.5.1, 4.5.2, 6.1, 6.3.1, 8.2.3, 8.2.4 and 8.2.6 to construct a five level, mixed, multi-family/commercial building with 36 units, all with one bedroom, on the top four levels with up to eight commercial units at ground level, where variances are required for height, density, parking, and setbacks by combining three (originally five) lots (as part of Planning Board review) all with the required five guest parking spaces in addition to one space for each unit. This property is located on Map 282 Lot 085 001; Map 282 Lot 087 001 and Map 282 Lot 007 000 and in the BS Zone.

Richard Green, Michael Green, Joe Coronati, Jones & Beach, Mike Witcher, Witcher Builders, and Attorney Peter Saari came forward. Attorney Saari said this project is dealing only with the McKeon property. This is a similar building to what was proposed last month. The height is now 60 feet at the top of the living area and 70 feet at the highest point. The interior is similar to the Sea Spray. There will be one-bedroom units over commercial space. This project will be good for the beach and bring in people. Mr. Coronati discussed the site plan and Mr. Witcher discussed the building materials to be used. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the doorways will be recessed like Mrs. Mitchells. Mr. Witcher said they would. Mr. O'Brien asked if there would be a roof deck. Mr. Witcher said there would not. Mr. O'Brien asked about water pressure. Mr. Witcher said they will have a diesel pressure system. Mr. St. Pierre asked about the lot area per dwelling. Attorney Saari said the units are approximately 700 square feet.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Provencal, to grant Petition 51-13.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

52-13...The Petition of J.S.T. Properties, LLC for property located at 139 Ocean Blvd. seeking relief from Articles 1.3 and 4.5.2 to move the 1st floor exterior wall back 9 feet and replace with a nana wall and move the 2nd floor deck out 2.1 feet to be in line with the existing awning where the building does not meet the 4 foot side setback requirements. This property is located on Map 287, Lot 042 and in the BS Zone.

Jim Traynor, Petitioner, and Attorney Peter Saari came forward. Attorney Saari said the existing building is very close to the side lot line, but this project would not bring it closer. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. O'Brien, to grant Petition 52-13.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

BUSINESS SESSION

Motion for Rehearing – 458 Winnacunnet Rd. – Petition 28-13

Bill Reddy, Petitioner, came forward.

There were no questions.

Moved by Mr. St. Pierre, seconded by Mr. J. Lessard, to grant a rehearing on Petition 28-13 to allow Mr. Reddy to present his entire petition and receive a decision on its merits. The rehearing will take place at the December meeting.

Vote: 5 yes, 0 no. Motion passed unanimously.

Approval of the Minutes

Moved by Mr. O'Brien, seconded by Mr. Provencal, to approve the Minutes of October 3, 2013.

Vote: 5 yes, 0 no. Motion passed unanimously.

Moved by Mr. O'Brien, seconded by Mr. Provencal, to approve the Minutes of October 17, 2013.

Vote: 4 yes, 0 no, 1 abstention (V. Lessard). Motion passed.

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Adjournment

There being no further business, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Joan Rice
Secretary